

LAW OFFICE OF JAY R. YABLON

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FACSIMILE COVER PAGE

To: Examiner Elizabeth A. Shaw
Fax #: 1-703-872-9306
Company: USPTO Art Unit 3644

From: Jay R. Yablon
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Subject: Reply to 1/15/04 Office Action for 10/604,983, with Terminal Disclaimer

Sent: 4/14/2004 at 9:47:34 AM

Pages: 3 (including cover)

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MESSAGE:

Dear Examiner Shaw:

This is in reply to the above-referenced office action.

The only rejection in this case was a nonstatutory double patenting rejection over US Patent 6,617,275. This patent number which bears no relationship to applicant appears to be erroneous, and it is assumed particularly in light of the mention of 92 claims that examiner meant to refer to applicant's prior US patent 6,612,257.

Accordingly, please find attached a one-page terminal disclaimer in relation to US 6,612,257, as well as a credit card payment for \$55 for the terminal disclaimer fee under 37 CFR 1.20(d).

By and with this reply, I hereby request further consideration of this application, and look forward to a notice of allowance.

Very truly yours,

Jay R. Yablon, Registration # 30604

CERTIFICATION OF FACSIMILE TRANSMISSION UNDER 37 C.F.R. 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office Fax Number 1-703-872-9306 on the transmission date of 4/14/2004, pursuant to 37 C.F.R. 1.8

Name of person signing this certificate: Jay R. Yablon

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**TERMINAL DISCLAIMER TO OBLIGATE A DOUBLE PATENTING
REJECTION OVER A PRIOR PATENT**

Docket Number (Optional)
GEORP004US

In re Application of: Robert A. George

Application No.: 10/604,983

Filed: August 29, 2003

For: Squirrel-Proof Bird Feeding Apparatus and Method

The owner*, Robert A. George, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,612,257. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. The undersigned is an attorney or agent of record.

April 14, 2004

Signature

Date

Jay R. Yablon

Typed or printed name

518-377-6737

Telephone Number

- Terminal disclaimer fee under 37 CFR 1.20(d) included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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